

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1337 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

BL YADAV

MANAGING TRUSTEE

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 1337 of 2002
MS SEJAL K MANDAVIA for Petitioner No. 1
MR SONAL VYAS AGP for Respondent No. 1-2
-

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 31/07/2002

ORAL JUDGEMENT

#. Rule. Learned AGP, Ms.Sonal Vyas waives service of Rule for respondents.

#. Reply affidavits as well as rejoinder are filed. Thus, the matter is complete. Therefore, at the request of learned counsel for the parties, the matter is heard and finally disposed of today by this Hon'ble Court.

#. The petitioner-Trust has filed this petition under Article 226 of the Constitution of India and prayed that the respondent authorities be directed to decide applications (Annexure B-1 and Annexure B-2) for starting girls hostel in village Mangalpur.

#. It is the case of the petitioner-trust that it wanted to start girls hostel in village Mangalpur, therefore, in pursuance of the advertisement published in newspaper it applied by filling requisite form along with certain documents. But the respondent No.2 has not bothered to inform the trust about his own decision whether to grant recommendation for girls hostel or not. First application is Annexure B-1.

#. In the month of June, 2001 advertisement was published in the newspaper. Therefore, again petitioner-Trust applied for permission to start girls hostel (Annexure B-2), but no decision was communicated to the petitioner, therefore, the petitioner-Trust has filed this petition and prayed that the respondent authorities be directed to decide its applications (Annexure B-1 and Annexure B-2).

#. On 27.3.2002 my learned Brother A.R.Dave, J. issued notice to the respondents making it returnable on 12.4.2002. While issuing notice respondent No.2 was directed to state the reasons for rejection of the earlier applications made by the Trust in June, 2001 and also to disclose the criteria on which permission is granted for commencing the girls hostels for SC/ST students. During the pendency of this petition, the petitioner-Trust had submitted one more application dated 2.3.2002 in pursuance of advertisement published in local news daily "Fulchab" dated 24.2.2002, therefore, respondent No.2 was also directed to scrutinise the said application also.

#. In reply to the notice and the directions issued by this court, first affidavit dated 19.4.2002 was filed by Mr.B.L.Desai, Deputy Director on behalf of respondent No.2. Wherein, it has been contended that it is not necessary for them to inform the petitioner as to whether such permission is granted or not. It is only when the permission granted, then only the persons are informed

otherwise not. Thus, in substance it was contended that the parties applied for permission and if not informed about the permission being granted, then it is to be understood by them that their applications have not been granted and they are rejected. About the 3rd application dated 12.4.2002, it is contended that the process is going on and on completion of the due date the application will be taken into consideration.

#. Subsequent affidavit dated 6.5.2002 was filed by one Shri M.U.Trivedi, Social Welfare Officer on behalf of respondent No.2. Wherein, again it has been reported that the process to consider the applications is on as per the order passed by this court while issuing notice on 27.3.2002 and they have also produced the criteria and conditions for running Chatralay i.e. Hostel along with reply affidavit at Annexure A-1.

#. This court has yet to come across such an evasive reply affidavit filed by Shri B.L.Desai on 19.4.2002 on behalf respondent No.2. If the authorities published their advertisement then it is the bounden duty to process and deal with the same and take just and proper decision in accordance with law. If the authority is not satisfied with the averments made in application and if it is of the opinion that the permission is not required to be granted, then also it is the bounden duty of the authority to inform about the said decision to the applicants, who have applied for such permission.

##. In the instant case, it is clear from the reply affidavit filed on behalf of respondent No.2 that previous two applications made by the petitioner-Trust were rejected. They ought to have placed the decisions rejecting the applications of the petitioner-Trust on the record. If the petitioner-Trust had not submitted third application dated 22.3.2002 during the pendency of this petition, then the respondent authority would have been directed to produce that decision. However, in view of the fact that they have come out with the case that last date of receiving applications is 12.4.2002 and process was still going, therefore, no such order is required to be passed.

##. In response to the notice and interim directions issued by this court on 27.3.2002, the respondent No.2 has also annexed criteria for grant of permission to commence new girls hostel to the second reply affidavit dated Annexure A-1.

##. Under the circumstances, the respondent No.2 is

permitted to consider the third and last application dated 22.3.2002 made by the petitioner-Trust for commencement of girls hostel for SC/ST students in accordance with the criteria laid down by them, which is annexed as Annexure A-1 to the second reply affidavit and to inform about its decision in writing to the applicant as soon as the decision is taken in the matter. It goes without saying that the respondent No.2 is bound to take decision strictly in accordance with law without any other consideration, including the filing of the petition by the petitioners. They shall process all the applications, including the last application of the petitioner-Trust and take decision and convey the same to the petitioner-Trust as well as all other applicants, who have made applications latest by 31.8.2002.

Accordingly, this petition is allowed to the aforesaid extent with the aforesaid observations and directions. Rule is made absolute accordingly with no order as to costs.

(B.J.Shethna, J.)

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